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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/091,333	10/26/98	O'SULLIVAN	A PI/5-20691A

EXAMINER

HM12/0922

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GERSTL, R

ART UNIT

PAPER NUMBER

1626

DATE MAILED:

09/22/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/091,333

Applicant(s)

O'sullivan

Examiner

Robert Gerstl

Group Art Unit

1626



☒ Responsive to communication(s) filed on Aug 10, 2000

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-7, 9, 12, 13, 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38 is/are pending in the application.

Of the above, claim(s) 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38 is/are withdrawn from consideration.

☒ Claim(s) 2-7, 9, 12, and 13 is/are allowed.

☒ Claim(s) 1 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

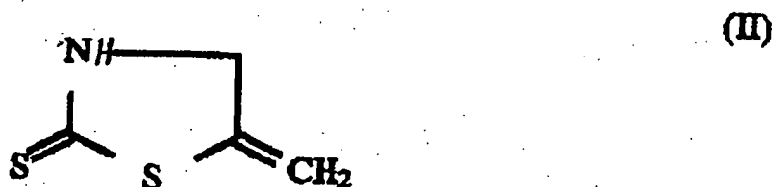
Art Unit: 1613

1. Applicant's response to the the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.
2. The restriction requirement of paper no.7 is deemed to be proper and is repeated. The reactants, reagents and reaction conditions differ in the processes. Claims 15, 16, 18-20, 22-24, 26, 27, 29-31, 33-35, 37, 38, 40-42, 44-46, 48-52, 54-56, 58-64, 66, 67 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected inventions, the requirement having been traversed in Paper No. 10.
3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being improperly directed to a misjoinder of inventions and failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. The following allowable claim is suggested for the purpose of an interference:

**Process for the preparation of 2-chloro-5-chloromethylthiazole of the formula (I)**



**characterized in that 5-methylene-1,3-thiazolidine-2-thione of the formula (II)**



**is reacted with a chlorinating agent, optionally in the presence of a diluent.**

Art Unit: 1613

The suggested claim must be copied exactly, although other claims may be proposed under 37 CFR 1.605(a).

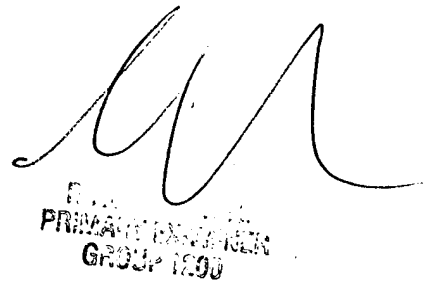
Applicant should make the suggested claim within ONE MONTH or THIRTY DAYS from the mailing date of this letter, whichever is longer. Failure to do so will be considered a disclaimer of the subject matter of this claim under the provisions of 37 CFR 1.605(a). THE PROVISIONS OF 37 CFR 1.136(a) DO NOT APPLY TO THIS TIME PERIOD.

Claims 1-7, 9, 12 and 13 are considered unpatentable over this suggested claim.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Gerstl whose telephone number is (703) 308-4531.

RG

September 21, 2000



Handwritten signature of Robert Gerstl. Below the signature is an official stamp that reads: "F. J. P. M. C. J. S. E. N. GROUP 1800".